

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/771,987
Filing Date: February 4, 2004
Applicant: Seth *et al.*
Group Art Unit: 1618
Examiner: Perreira, Melissa Jean
Title: EXTENDED RELEASE PHARMACEUTICAL TABLET
OF METFORMIN
Attorney Docket: 1259-000001/CPB

DECLARATION UNDER 37 C.F.R. 1.132


The undersigned hereby declare that:

1. We are co-inventors and co-applicants of the invention described in pending application serial no. 10/771,987 captioned above.
2. One of us (Seth) is the inventor of the claimed subject matter of U.S. Patent No. 6,350,471, which issued Feb. 26, 2002 on an application filed May 31, 2000 ("Seth '471 Patent").
3. We understand from counsel that the Seth '471 Patent has been cited as a reference against certain claims in the above captioned application as prior art for anticipation and obviousness, under 35 USC § 102(e) and § 103(a), respectively. We understand the Examiner has cited, in particular, a passage from the Seth '471 Patent

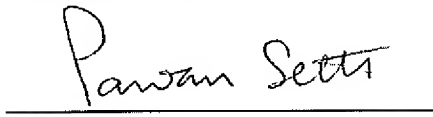
(column 2, lines 26 – 28) which states that "cores are then coated with the semi-permeable coating designed to achieve a controlled release of metformin."

4. Insofar as the invention claimed in the subject Serial No. 10/771,987 application is taught or suggested by the disclosure of the Seth '471 Patent as relied upon by the Examiner, it was originally conceived by us and constitutes our joint work. Thus, the subject matter disclosed in the Seth '471 Patent and relied on in the rejections of the subject Serial No. 10/771,987 application was our own invention and was derived accordingly into the Seth '471 Patent.

5. Each of the undersigned hereby declares that the statements made herein of his own knowledge are true and that the statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statement may jeopardize the validity of the application, and any patent issuing thereon, or any patent to which this declaration is directed.


Benoit Schmitt

4/21/08
Date


Pawan Seth

4/21/08
Date

Serial No. 10/771,987
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